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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,083	03/10/2004	Marc Tardiff	NA-1241	4068
7590 01/29/2007 U.S. Army Soldier Systems Center Kansas Street Natick, MA 01760			EXAMINER KRAMER, DEAN J	
			ART UNIT	PAPER NUMBER
			3652	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/802,083

Applicant(s)

TARDIFF, MARC

Examiner

Dean J. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 9 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/10/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10-13 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "each sling guide member" as recited in claims 10-13. Also, the phrase "a non-corrosive coating one on the steel", as recited in claim 17, is not clearly understood.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kempel et al. (3,021,166).

The patent to Kempel et al. shows a spreader bar assembly comprising an elongate central tube (17a), a pair of elongate end members (17b), a pair of sling guides (16), and a locking system (17c,17d).

5. Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (3,502,364).

Moore shows an embodiment in Figure 3 comprising an elongate central member (60,62), a plurality of end members (64), sling guides (38) formed on the distal end of each end member, and a locking system including pins (70) selectively extendable through aligned pairs of openings in the central member and end members (see Fig. 8).

6. Claims 1-3, 5-8, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts et al. (5,263,675).

The patent to Roberts et al. shows a spreader bar assembly comprising a central member (38), a pair of end members (44,46), a pair of sling guides (83,85), and a locking system including pin members (52,54) with locking members (60) at their distal ends. Regarding claims 2 and 19, as can best be determined from Figs. 2 and 3 of the Roberts et al. patent, the lengths (see Fig. 2) and cross-sections (see Fig. 3) of each end member (44,46) would inherently allow the proximal ends of these members to abut if both members were fully inserted into the central member.

7. Claims 1, 3-7, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (4,248,472).

The patent to Brown et al. shows an elongate steel central member (44), a pair of steel elongate end members (46,47), a pair of sling guides (60), and a locking system (56)..

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14-18, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over either Kempel et al., Moore, or Roberts et al..

The Kempel et al., Moore, and Roberts et al. patents were presented above in sections 4, 5, and 6, respectively, and substantially show the invention as set forth in claims 14-18 of the instant application except that these patents do not specifically disclose the materials used to fabricate their spreader bars assemblies.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the load bearing members (i.e. the central and end members) of either the Kempel et al., Moore, or Roberts et al. spreader out of any well known durable metal, such as steel, aluminum, or any other metal commonly used in the art, especially since applicant has not specifically disclosed that these particular materials solve any stated problem or are for any critical purpose.

***Allowable Subject Matter***

10. Claims 9 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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11. Claims 10-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

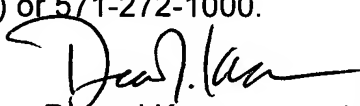
Lyon shows a spreader bar having a central member and a pair of end members disposed partially therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (571) 272-6926. The examiner can normally be reached on Mon., Tues., Thurs., Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dean J Kramer  
Primary Examiner  
Art Unit 3652

1/19/07

djk  
1/19/07